

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFREY JACKSON, identified on
initiating document as Jeffrey Jackson-El,

Case No. 1:10-cv-1203

Plaintiff,

HON. JANET T. NEFF

v

JAMES SHINGOLA, JR., *et al.*,

Defendants.

OPINION AND ORDER

Plaintiff, proceeding *informa pauperis*, initiated the present action against Defendants James Shingola, Jr.; James Shingola; and Kimberly Shingola. The matter was referred to the Magistrate Judge, who performed a review of the complaint pursuant to 28 U.S.C. § 1915(e)(2) and issued a Report and Recommendation (R & R, Dkt 5) on December 9, 2010, recommending that this Court dismiss the complaint for failure to state a claim under federal law and recommending that the Court decline to exercise jurisdiction over any asserted state or local law claims. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (Pl. Obj., Dkt 7). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff argues that the Magistrate Judge erred in recommending that the Court decline jurisdiction over Plaintiff's state or local law claims (Dkt 7 at 1). Plaintiff argues that he is not asserting any state law claims, that he only cited state law in support of his Fifth Amendment claim (*id.*). Plaintiff further argues that, because he has presented a federal question, the Court cannot "decline" to exercise jurisdiction (*id.*).

Plaintiff's objections reveal no error in the Magistrate Judge's determination that Plaintiff's complaint fails to state a federal claim on which relief may be granted. Because the Court finds no error in the Magistrate Judge's analysis, the Court adopts the Magistrate Judge's recommendation to dismiss the federal claim. Accordingly, to the extent that Plaintiff also asserts a violation of state or local law, the Court also agrees with the recommendation to decline to exercise supplemental jurisdiction over any state or local law claims. *See* 28 U.S.C. § 1367(c)(3); *United Mine Workers v. Gibbs*, 383 U.S. 715, 726 (1966).

A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. For the above reasons and because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Judgment would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Accordingly:

IT IS HEREBY ORDERED that the Objections (Dkt 7) are DENIED, and the Report and Recommendation (Dkt 5) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that, to the extent that Plaintiff asserts a violation of federal law, the Complaint (Dkt 1) is DISMISSED WITH PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2)(B) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that, to the extent that Plaintiff asserts a violation of state or local law, the Complaint (Dkt 1) is DISMISSED WITHOUT PREJUDICE for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C § 1915(a) that an appeal of the Judgment would not be taken in good faith.

Date: February 18, 2011

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge